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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
MICHAEL RICHARD LYNCH and  
STEPHEN KEITH CHAMBERLAIN,  
  
Defendants.

Case No.: 3:18-cr-00577-CRB  
Judge: Hon. Charles Breyer  
**DEFENDANT MICHAEL RICHARD  
LYNCH'S MOTION TO EXCLUDE  
SPECULATIVE AND IMPROPER OPINION  
TESTIMONY**

Date: March 28, 2024, 9:00 a.m.  
Court: Courtroom 6 – 17<sup>th</sup> Floor

1 Late this evening, the government provided the defense with a March 23, 2024 FBI report  
2 of its interview of witness Christopher (“Stouffer”) Egan, who is expected to begin testifying  
3 tomorrow afternoon. The one-page report suggests the government intends to ask Mr. Egan a set  
4 of questions requiring him to speculate or provide improper lay opinion testimony about the  
5 nature of the relationship between Dr. Lynch and Sushovan Hussain.

6 Specifically, the report contains the following three statements about the nature of the  
7 relationship:  
8

- 9 1) “EGAN had no reason to think Sushovan Hussain (HUSSAIN) was keeping any  
10 matter large or small from Mike Lynch (LYNCH).”  
11 2) “EGAN thought there was a complete exchange of information between HUSSAIN  
12 and LYNCH with only a limited amount of information that LYNCH would not tell  
13 HUSSAIN.”  
14 3) “EGAN did not think there was anything HUSSAIN would not tell LYNCH.”  
15

16 Rule 602 is clear. A witness may testify about a matter only if he has personal  
17 knowledge. See also *United States v. Lopez*, 762 F.3d 852, 863 (9th Cir. 2014) (“Personal  
18 knowledge means knowledge produced by the direct involvement of the senses.”). Rule 701  
19 permits lay opinion testimony, but only if such testimony is “rationally based on the witness’s  
20 perception.” Fed. R. Evid. 701(a).

21 Neither rule allows the type of testimony contemplated here. As a fact witness, Mr. Egan  
22 can testify as to matters of which he has personal knowledge of facts, including facts that might  
23 bear on the jury’s understanding of the nature of the relationship between Dr. Lynch and Mr.  
24 Hussain. But he is not permitted to speculate or draw unsupportable conclusions, such as stating  
25 whether “there was anything HUSSAIN would not tell LYNCH” or whether they would keep  
26 “any matter large or small” from each other.  
27  
28

Mr. Egan also cannot offer lay opinion testimony about whether Hussain and Lynch shared everything with each other, or whether they might ever keep things from one another. Mr. Egan lived on a different continent from both Lynch and Hussain and only interacted with Hussain and Lynch in person a few times a year. Therefore, the opinions expressed are not “rationally based on the witness’s perception” and should be excluded. Fed. R. Evid. 701(a). Additionally, such lay opinion testimony is not “helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Fed. R. Evid. 702(b). Lastly, such speculation should be excluded because its probative value is substantially outweighed by the risk of unfair prejudice. Fed. R. Evid. 403.

Dated: March 27, 2024

Respectfully submitted,

By: /s/ Celeste L.M. Koeleveld  
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